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General Assembly

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Sixtieth session

Request for the inclusion of an additional item in the agenda of the sixtieth session

Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General

1. By his letters to the General Assembly and Security Council dated 14 September 2005, the Secretary-General requested both the Council and the Assembly to authorize the assignment of Judge Christine Van Den Wyngaert to serve as of 3 October 2005 on the *Mrskic et al.* case before the International Tribunal.

2. Judge Van Den Wyngaert's term of office as a member of the pool of ad litem judges had come to an end on 11 June 2005. She was authorized, however, by Security Council resolution 1581 (2005) and by a decision of the General Assembly taken at its 80th plenary meeting, on 20 January 2005, to continue her functions as an ad litem judge in the *Limaj* case beyond that date. On 19 November 2004, Judge Van Den Wyngaert had been elected a permanent judge of the International Tribunal with a term beginning on 17 November 2005.

3. Consequently, the approval of the Security Council and the General Assembly is needed to allow Judge Van Den Wyngaert to serve as of 3 October 2005 on the *Mrksic* case given that she has been authorized to continue her functions only as an ad litem judge in the *Limaj* case and that she will begin her elected four-year term as a permanent judge of the International Tribunal only on 17 November 2005.

4. In order for the General Assembly to consider the above-mentioned matter, the Secretary-General has the honour, pursuant to rule 15 of the rules of procedure of the General Assembly, to request the inclusion in the agenda of the sixtieth session of an additional item of an important and urgent character entitled "Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991". The Secretary-General requests that the item be considered directly in plenary meeting.

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Sixtieth session

Request for the inclusion of an additional item in the agenda of the sixtieth session

Observer status for the Hague Conference on Private International Law

Letter dated 12 October 2005 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the Kingdom of the Netherlands to the United Nations has the honour to request, in accordance with rule 15 of the rules of procedure of the General Assembly, the inclusion in the agenda of the sixtieth session of an item entitled "Observer status for the Hague Conference on Private International Law".

An explanatory memorandum (annex I) in support of the above request and a draft resolution (annex II) are attached to the present letter, in accordance with rule 20 of the rules of procedure of the General Assembly.

I also have the honour to request that the present letter and its annexes be circulated as a document of the General Assembly.

(*Signed*) Frank **Majoor**
Ambassador
Permanent Representative

05-55453 (E) 181005

Annex I to the letter dated 12 October 2005 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the General Assembly

Explanatory memorandum

The Hague Conference on Private International Law is an intergovernmental organization based at The Hague, which presently comprises 65 member States. Sixty more States, without being members of the Organization, are parties to one or more Hague Conventions. Its origin goes back to 1893; it has been an intergovernmental organization since 1955. Its meetings normally take place at the Peace Palace at The Hague, the Netherlands.

Since 1951, the Conference has drawn up 36 multilateral treaties (conventions) in many areas of private international law. The work of the Conference covers a very wide field, and may be conveniently grouped under three headings:

(a) International legal cooperation and litigation;

(b) International protection of children, families, family (property) relations, and vulnerable adults;

(c) International commercial and finance law.

In each of these fields, the Conference has adopted a number of multilateral treaties, for which it also provides assistance, monitoring and support; in fact, the "servicing" of these conventions has now become a major part of its activity. In each of these fields, there is cooperation with the United Nations or there is potential for more cooperation.

Close cooperation has developed between the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for the Unification of Private Law (UNIDROIT), and the Hague Conference on Private International Law. The heads of the three bodies take part personally in these coordination meetings, two of which have now taken place, and have been very fruitful. It is the firm intention of the Conference to hold such meetings at least annually. The secretariat of the Conference is assisting UNCITRAL on private international law aspects of various UNCITRAL projects (including the ongoing work on a legislative guide on secured transactions).

In the area of legal cooperation and litigation, there is cooperation with UNCITRAL and there is great potential for wider cooperation. The Hague Conventions on abolishing legalization, service of documents abroad, taking of evidence abroad, and access to justice are basic instruments for legal cooperation in a globalizing world. They could greatly facilitate transnational legal contacts in respect of both private relationships and business transactions for all nations with a functioning State structure.

Relating to children and families, the Hague Conference on Private International Law works with, among other groups, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights (in particular the Committee on the Rights of the Child), and the Office of the United Nations High Commissioner for Refugees. The focus here is very much on the Hague Conventions on international child abduction, adoption and the protection of

children. Moreover, the Permanent Bureau acts as the servicing secretariat for the 1956 United Nations Convention on the Recovery Abroad of Maintenance, and is presently working on a new convention on international recovery of child support and other forms of family maintenance, which will create a complete modern system for international cooperation in matters of child and family support (also relevant in the context of "Investing in Development"). With regard to this whole area, including also the Conventions on the recognition of divorces, marriages and successions, there is potential for more systematic and programmatic cooperation between the United Nations and the Conference. The various Hague Conventions, since they do not aim at unifying substantive law, are in fact potentially important vehicles for bridging cultural and ideological divides. In this respect, the successful efforts of the Conference, through various conferences, to bring together judges and officials from certain countries with religious systems of law and with secular systems should be mentioned.

In the field of commercial and finance law, the Conference has worked in the past with the United Nations Conference on Trade and Development (on the transfer of technology to developing countries, the law applicable to licensing agreements and know-how) and with UNCITRAL (international sales, negotiable instruments). More recently, as a result in part of the intensifying tripartite cooperation with UNCITRAL and UNIDROIT, promising contacts have been made with the World Bank concerning promotion of our most recent convention, the Convention on the Law Applicable to Certain Rights in respect of Securities held with an Intermediary.

Given the way the work of the Conference has developed, and the current and future needs of the States Members of the United Nations and their citizens, there is reason to reflect together on how cooperation between the United Nations and the Conference could better meet the needs of our world's citizens. The Conference suggests that, pursuant to the General Agreement of 10 November 1958 between the United Nations and the Conference, the Conference be granted observer status in the General Assembly, in order to achieve more complementarity and to widen potential for more systematic and more programmatic forms of cooperation.

Annex II to the letter dated 12 October 2005 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the General Assembly

Draft resolution

Observer status for the Hague Conference on Private International Law

The General Assembly,

Wishing to promote cooperation between the United Nations and the Hague Conference on Private International Law,

1. *Decides* to invite the Hague Conference on Private International Law to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.